

JCC-3489

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 2:06-cv-3296

RAYMOND J. WILSON

:

Plaintiff(s)

:

v.

:

**ANSWER AND
AFFIRMATIVE
DEFENSES**

THE CITY OF JERSEY CITY, the
JERSEY CITY POLICE DEPARTMENT, :
JERSEY CITY POLICE LT. EDWARD :
GILLEN, JERSEY CITY POLICE :
OFFICER JULIO LUNA, ABC CORP. :
NOS. 1-10 AND JOHN DOES NOS. 1-10 :

:

Defendant(s)

:

:

Defendants City of Jersey City and the Jersey City Police Department answers this
Complaint as follows:

PARTIES

1. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 1 of the Complaint.
2. Defendants admit the allegations contained in Paragraph 2 of the Complaint.
3. Defendants admits the Jersey City Police Department is a department within the municipal government of the City of Jersey City responsible for providing police services for the City of Jersey City. Defendants deny the balance of the allegations set forth in Paragraph 3 of the Complaint.
4. Defendants admit that Edward Gillen is employed by the City of Jersey City as a Lieutenant in the Jersey City Police Department. Defendants have insufficient

knowledge or information to form of a belief as to the remaining allegations of Paragraph 4 of the Complaint.

5. Defendants admit that Julio Luna was a police officer employed by the City of Jersey City Police Department. Defendants have insufficient knowledge or information to form of a belief as to the remaining allegations of Paragraph 5 of the Complaint.
6. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 6 of the Complaint.
7. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 7 of the Complaint.

SUBSTANTIVE ALLEGATIONS

8. Defendants deny the allegations contained in Paragraph 8 of the Complaint.
9. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 9 of the Complaint.
10. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 10 of the Complaint.
11. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 11 of the Complaint.
12. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 12 of the Complaint.
13. Defendants neither admit or deny the first sentence of the allegations contained in Paragraph 13 and leaves the plaintiff to its proofs. Defendants deny the balance of the allegations contained in Paragraph 13 of the Complaint.
14. Defendants have insufficient knowledge or information to form of a belief as to the first sentence of Paragraph 14. Defendants admit that Officer Luna placed Wilson in handcuffs and brought Wilson to the North District. Defendants have insufficient knowledge or information to form of a belief as to the balance of the allegations contained in Paragraph 14 of the Complaint.

15. Defendants admit the Officer Luna placed Wilson in handcuffs and brought Wilson to the North District Police Station. Defendants deny that “other Jersey City Police Officers forcibly detained plaintiff Wilson or coerce Wilson into paying Luna the \$1,000.” Defendant are without sufficient knowledge or information to form of a belief as to the balance of the allegations contained in Paragraph 15 of the Complaint.
16. Defendant are without sufficient knowledge or information to form of a belief as to the allegations of Paragraph 16 of the Complaint.
17. Defendant are without sufficient knowledge or information to form of a belief as to the allegations of Paragraph 17 of the Complaint.
18. Defendants deny the allegations contained in Paragraph 18 of the Complaint
19. Defendants deny the allegations contained in Paragraph 19 of the Complaint.
20. Defendants deny the allegations contained in Paragraph 20 of the Complaint.

COUNT ONE

(Civil Rights Conspiracy Under 42 U.S.C. §1985(3))

21. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
22. Defendants deny the allegations contained in Paragraph 22 as it pertains to these defendants.
23. Defendants deny the allegations contained in Paragraph 23 of the Complaint.
24. Defendants deny the allegations contained in Paragraph 24 of the Complaint.
25. Defendants deny the allegations contained in Paragraph 25 of the Complaint.
26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT TWO

(Due Process Violations)

27. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
28. Defendants deny the allegations contained in Paragraph 28 of the Complaint.
29. Defendants deny the allegations contained in Paragraph 29 of the Complaint.

30. Defendants deny the allegations contained in Paragraph 30 of the Complaint.
31. Defendants deny the allegations contained in Paragraph 31 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT THREE

(State Constitutional Violations)

32. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
33. Defendants deny the allegations contained in Paragraph 33 as it pertains to these defendants, these defendants lack sufficient knowledge or information to form a belief as to the remaining allegations of Paragraph 33 of the Complaint.
34. Defendants deny the allegations contained in Paragraph 34 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT FOUR

**As to Defendants
JOHN DOES NOS. 1-10
Negligence and/or Gross Negligence**

35. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
36. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 36 of the Complaint.
37. Defendants deny the allegations contained in Paragraph 37 as it pertains to these defendants. These defendants lack sufficient knowledge or information to form a belief as to the remaining allegations of Paragraph 37 of the Complaint.
38. Defendants deny the allegations contained in Paragraph 38 as it pertains to these defendants. These defendants lack sufficient knowledge or information to form a belief as to the remaining allegations of Paragraph 38 of the Complaint.
39. Defendants deny the allegations contained in Paragraph 39 as it pertains to these defendants. These defendants lack sufficient knowledge or information to form a belief as to the remaining allegations of Paragraph 39 of the Complaint.
40. Defendants deny the allegations contained in Paragraph 40 as it pertains to these defendants. These defendants lack sufficient knowledge or information to form a

belief as to the remaining allegations of Paragraph 40 of the Complaint.

41. Defendants deny the allegations contained in Paragraph 41 of the Complaint.
42. Defendants deny the allegations contained in Paragraph 42 as it pertains to these defendants. These defendants lack sufficient knowledge or information to form a belief as to the remaining allegations of Paragraph 42 of the Complaint.
43. Defendants deny the allegations contained in Paragraph 43 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT FIVE

As to All Defendants
Intentional Misconduct and/or Gross Negligence

44. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
45. Defendants deny the allegations contained in Paragraph 45 of the Complaint.
46. Defendants deny the allegations contained in Paragraph 46 of the Complaint.
47. Defendants deny the allegations contained in Paragraph 47 of the Complaint.
48. Defendants deny the allegations contained in Paragraph 48 of the Complaint.
49. Defendants deny the allegations contained in Paragraph 49 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT SIX

As to All Defendants
Negligence and/or Gross Negligence in the Hiring, Supervision and Retention of
Defendants Luna and/or Gillen

50. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
51. Defendants deny the allegations contained in Paragraph 51 of the Complaint.
52. Defendants deny the allegations contained in Paragraph 52 of the Complaint.
53. Defendants deny the allegations contained in Paragraph 53 of the Complaint.
54. Defendants deny the allegations contained in Paragraph 54 of the Complaint.
55. Defendants deny the allegations contained in Paragraph 55 of the Complaint.
56. Defendants deny the allegations contained in Paragraph 56 of the Complaint.
57. Defendants deny the allegations contained in Paragraph 51 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT SEVEN

**As to All Defendants
Respondeat Supervisor**

58. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
59. Defendants deny the allegations contained in Paragraph 59 of the Complaint.
60. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 60 of the Complaint.
61. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 61 of the Complaint.
62. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 62 of the Complaint.
63. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 63 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT EIGHT

**As to All Defendants
Conspiracy to Commit Acts and Violate Plaintiff's State Statutory and Constitutional
Rights**

64. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
65. Defendants deny the allegations contained in Paragraph 65 of the Complaint.
66. Defendants deny the allegations contained in Paragraph 66 of the Complaint.
67. Defendants deny the allegations contained in Paragraph 67 of the Complaint.
68. Defendants deny the allegations contained in Paragraph 68 of the Complaint.
69. Defendants deny the allegations contained in Paragraph 69 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT NINE

**As to All Defendants
Fraudulent Concealment/Misrepresentation**

70. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
71. Defendants deny the allegations contained in Paragraph 71 of the Complaint.
72. Defendants deny the allegations contained in Paragraph 72 of the Complaint.
73. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 73 of the Complaint.
74. Defendants deny the allegations contained in Paragraph 74 of the Complaint.
75. Defendants deny the allegations contained in Paragraph 75 of the Complaint.
76. Defendants deny the allegations contained in Paragraph 76 of the Complaint.
77. Defendants deny the allegations contained in Paragraph 77 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT TEN

**As to all Defendants
Negligent Infliction of Emotional Distress**

78. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
79. Defendants deny the allegations contained in Paragraph 79 of the Complaint.
80. Defendants deny the allegations contained in Paragraph 80 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT ELEVEN

**As to All Defendants
Invasion of Privacy**

81. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
82. Defendants deny the allegations contained in Paragraph 82 of the Complaint.
83. Defendants deny the allegations contained in Paragraph 83 of the Complaint.
84. Defendants deny the allegations contained in Paragraph 84 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT TWELVE

As to All Defendant

Unlawful Arrest, Imprisonment and Detainer

85. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
86. Defendants admit they have a duty of care to the public. Defendants deny the remaining allegations contained in Paragraph 86 of the Complaint.
87. Defendants deny the allegations contained in Paragraph 87 of the Complaint.
88. Defendants deny the allegations contained in Paragraph 88 of the Complaint.
89. Defendants deny the allegations contained in Paragraph 89 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT THIRTEEN

As to All Defendants
Intentional Infliction of Emotional Distress

90. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
91. Defendants deny the allegations contained in Paragraph 91 of the Complaint.
92. Defendants deny the allegations contained in Paragraph 92 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT FOURTEEN

As to All Defendants

93. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.
94. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 94 of the Complaint.
95. Defendants deny the allegation contained in Paragraph 95 of the Complaint.
96. Defendants have insufficient knowledge or information to form of a belief as to the allegations of Paragraph 96 of the Complaint.
97. Defendants deny the allegations contained in Paragraph 97 as it refers to these defendants. Defendants have insufficient knowledge or information to form of a

belief as to the remaining allegations of Paragraph 97 of the Complaint

98. Defendants deny the allegations contained in Paragraph 98 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT FIFTEEN

As to All Defendants

Request for Punitive Damages

99. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.

100. Defendants deny the allegations contained in Paragraph 100 of the Complaint.

101. Defendants deny the allegations contained in Paragraph 101 of the Complaint.

102. Defendants deny the allegations contained in Paragraph 102 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT SIXTEEN

(Civil Rights Under 42 U.S.C. § 1983)

103. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.

104. Defendants deny the allegations contained in Paragraph 104 of the Complaint.

105. Defendants deny the allegations contained in Paragraph 105 of the Complaint.

106. Defendants deny the allegations contained in Paragraph 106 of the Complaint.

107. Defendants deny the allegations contained in Paragraph 107 of the Complaint.

108. Defendants deny the allegations contained in Paragraph 108 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

COUNT SEVENTEEN

ASSAULT AND BATTERY

109. Defendants repeats and realleges its answers previously submitted, as if fully set forth herein.

110. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 110 of the Complaint.

111. Defendants lack sufficient knowledge or information to form a belief as to the allegations contained in Paragraph 111 of the Complaint.

WHEREFORE, Defendants demand judgement dismissing the Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiffs' failed to state a cause of action upon which relief can be granted.
2. Plaintiff's claims are barred by the applicable statute of limitations.
3. Defendants are not responsible for the incidents complained of as they are the result of the negligence of plaintiffs or Third Persons over whom this party had no control.
4. Plaintiffs' have not been deprived of any right, privilege or any immunity secured to them by the United States Constitution, any Act of Congress or by the New Jersey State Constitution by these defendants.
5. Defendants cannot be held liable in the matters at bar since defendants did not have an official policy, custom or practice which violated plaintiff's constitutional rights.
6. Defendant City of Jersey City is a public entity and at all times was acting pursuant to lawful authority vested in it by the State of New Jersey. All acts were performed with the result of the appropriate exercise of defendants discretion, and therefore, is entitled to absolute immunity.
7. The conduct of the answering defendants was not the proximate cause of any damages or injuries which may have been sustained by the plaintiffs.
8. Defendants acted at all times relevant hereto with good faith and without fraud or malice and, therefore, defendants are entitled to qualified immunity under Federal and New Jersey State Law.
9. The answering defendants are not liable to the plaintiff because they are absolutely immune and/or qualifiedly immune.
10. Plaintiffs' have alleged no facts to give raise to a claim for punitive damages.
11. Defendants did not know and were not reasonably expected to know, that any actions taken with respect to plaintiffs, at all times, were in violation of plaintiff's constitutional rights, and, therefore, are entitled to qualified immunity.
12. Damages, if any, sustained by plaintiffs were results of actions of persons and/or entities over whom these defendants had no control.

13. Whatever these answering defendants did or did not do was done with proper motive and based on constitutionally accepted grounds.
14. Plaintiff's have received all of the substitutive in procedural process due them and they have not been deprived of equal protection under the United States and State Constitutions and laws.
15. The answering defendants were properly trained and instructed.
16. These defendants did not engage in any conspiracy in any manner to deprive plaintiffs' of any rights due them under the law.
17. Plaintiff's are estopped from proceeding with this alleged action.
18. Recovery is barred in this action by the provisions of the New Jersey Tort Claims Act, N.J.S. 59:1-1, et seq.
19. Recovery is barred in this action in whole or in part, by contributory and/or comparative negligence of plaintiffs.
20. These defendants did not inflict emotional distress, intentionally, negligently, or otherwise upon the plaintiffs.
21. Defendant, City of Jersey City cannot be held liable for conspiracy as a matter of law since a public entity cannot engage in an conspiracy.
22. These defendants violated no legal duty owed to anyone.
23. No willfulness or malice was involved in any events constituting the factual basis upon which this suit has been instituted.
24. There is no reckless conduct involved in any of the events, constituting the factual basis upon which this suit has been instituted.
25. The answering defendants are immune from liability pursuant to the provisions of N.J.S. 59:3-1 et seq., and the Federal Civil Rights Act of 42 U.S.C. § 1983 and 2000e.
26. Any action on the part of the answering defendants or in the nature of a discretionary activity within the meaning of N.J.S. 59:3-2 in the Civil Rights Act, 42 U.S.C. § 1983 and 2000e accordingly, no liability may be imposed upon the answering defendants.

27. The conduct of the answering defendants was not the approximate cause of any damages or injuries which may have been sustained by the plaintiffs.
28. The answering defendants are not liable since they acted in good faith at all times.
29. This action is barred by the failure of plaintiffs' to exhaust local and administrative remedies.
30. The answering defendants are immune from liability pursuant to N.J.S. 59:3-3 because they acted in good faith in the execution of enforcement of any law.
31. City of Jersey City and the Jersey City Police Department are immune from punitive damages pursuant to federal and state law, the 11th amendment and because their actions were never malicious, intentional, willful, wanted or knowingly outside the law for exercise of their official duties.
32. Plaintiff's claims are not ripe for adjudication.
33. Defendants reserve the right to supplement these affirmative defenses based upon facts which may be adduced at trial.

BILL MATSIKOUDIS
Corporation Counsel
Attorney for Defendants
City of Jersey City and the Jersey City Police
Department

By: s/John C. Caulfield
John C. Caulfield
Assistant Corporation Counsel

I certify that this pleading was filed within the time prescribed by the Rules of Court and that I have no knowledge of any other action or arbitration involving this matter, nor of any additional parties who should be joined in this action.

s/John C. Caulfield
John C. Caulfield
Assistant Corporation Counsel

JCC/dc
August 8, 2006